TOPICAL INDEX

Page

Point I.—It Was A Simple Thing To Mail Notice To Petitioner's Address 2

Point II.—Erroneous Information: By Mistake Through and In the Circumstances Is inferentially Admitted But Respondent Is Confused As To the Truth Thereof and Positively States as Fact That Which Is Not True 3

Conclusion 8

TABLE OF CASES AND AUTHORITIES CITED

Authorities

California Revenue and Taxation Code,

§ 3358 1

§ 3379 1

C.P.C. § 338 6

28 U.S.C. § 1331 7

IN THE

Supreme Court of the United States

October Term, 1966

No. 953

D. J. MILLER,
Petitioner,

vs.

COUNTY OF LOS ANGELES, a political subdivision of the State of California,
Respondent.

REPLY TO RESPONDENT'S ANSWER TO PETITION FOR WRIT OF CERTIORARI

Going directly to the heart of the "due process issue" in the confiscation of "petitioner's land," under the jurisdictional constitutional question; are two points:

1. Failure to send notice to petitioner as provided by § 3358 and § 3379 of the California Revenue and Taxation Code; and
2. Misinformation in the matter by inadvertent misrepresentation.

The County has shown itself to be somewhat confused in the history of this case. Its memorandum in opposition does not factually clarify its position with respect to these integral points of issue which are summarized as follows:

POINT I.

IT WAS A SIMPLE THING TO MAIL NOTICE TO PETITIONER'S ADDRESS.

In the statement of the case (Petition p. 5), it is shown that the redemption department which processes such tax delinquent property, had petitioner's address available. (No where does the County deny this), and it was used by one of the employees of this Department to write him seeking purchase of this property. Respondent remains inadequately silent as to why it did not or could not follow officially* what one of its employees did unofficially.

---

*The Answer (pp. 4 and 5) refers to affiant Mr. Skinner avering that he searched for petitioner's address where it was not but no statement is made about his passing up the Redemption Department where it was easily obtainable.

POINT II.

ERRONEOUS INFORMATION: BY MISTAKE: THROUGH AND IN THE CIRCUMSTANCES IS INFERENTIALLY ADMITTED BUT RESPONDENT IS CONFUSED AS TO THE TRUTH THEREOF AND POSITIVELY STATES AS FACT THAT WHICH IS NOT TRUE.

The essence of the matter of "mistake" first verbal, then corroborated by documentation, is best shown by a nineteen line paragraph consisting of four sentences commencing at the bottom of page twenty-two of respondent's Answer.

This paragraph (with emphasis supplied) is hereby quoted verbatim; then re-quoted sentence by sentence, A. B. C. D., followed by a crux statement of clarifying facts:

> "Petitioner *was advised on January 10, 1962,* that *his property* had been deeded to respondent on October 19, 1960, and he did not file the present action until *almost two years after acquiring* this knowledge. Assuming solely for the purpose of argument that respondent should be estopped from asserting the statute of limitations because petitioner was misled to his detriment, he was not so misled subsequent to *January 10, 1962,* and any *misrepresentations,* if any there were, *were cured* as of that date. If respondent should be estopped, it should only be for such a period not to exceed *one year subsequent to the time* petitioner was

advised of the disposition of his *property;* i.e. up and until *January 10, 1963.* This one-year period would give petitioner the same period of time allowed him by Section 3809 to attack the validity of the deed to respondent and yet, petitioner slept on his rights until December 31, 1963, *almost two years after* he was advised by the Tax Collector that his property had been deeded to respondent."

A. "PETITIONER WAS ADVISED on January 10, 1962, that his property had been deeded to appellee on October 19, 1960, and did not file the present action until almost two years after *acquiring this knowledge.*"

The respondent is in error since it stipulates, as quoted from page 19 of its brief to Court below. (in Petition at pages 5 and 11):

"Appellee would point out that the only misinformation contained in that letter (above Tax Collector letter of January 10, 1962), *is the legal description* contained therein . . .'" (Emphasis supplied).

Patently, the property was not identified by "the legal description" in said letter that was completely different from the true one (See Petition, p. 5). Obviously, therefore, petitioner *did not acquire knowledge"* as respondent mistakenly asserts, on January 10, 1962.

B. "Assuming solely for the purpose of argument that respondent should be estopped from as-

serting the statute of limitations because petitioner was misled to his detriment, he was *not so misled* subsequent to January 10, 1962, and any misrepresentations, if any there were, were cured as of *that date.*"

As proven above, petitioner was truly *misled* subsequent to *January 10, 1962,* because of the admitted "misinformation" which prevented him from knowing the facts about his property involved.

C. "If respondent should be estopped, it should only be so for a period not to exceed *one year subsequent to the time petitioner was advised* of the disposition of his property, i.e. up and until January 10, 1963."

The actual "time" that petitioner was "advised of the disposition of his property" was shortly after *April 30, 1963,* which was the date of the letter from an officer of respondent with true legal description of the property (Petition p. 4 footnote), hence, the action filed December 1963, was well within the "one year period" which respondent concedes should be the case.

D. "This one-year period would give petitioner the same period of time allowed him by Section 3809 to attack the validity of the deed to respondent and yet petitioner slept on his rights until December 31, 1963, almost two years after he was advised by the Tax Collector that his property had been deeded to respondent."

PETITIONER *AGREES WITH* RESPONDENT THAT HE SHOULD BE ENTITLED *TO THE ONE-YEAR PERIOD* FROM *ACTUAL DATE* OF BEING *ADVISED* OF *DISPOSITION OF THE PROPERTY;* BECAUSE, OF THE MISINFORMATION.

Respondent is overlooking the facts: as shown in the Petition (pp. 4, 11), that over a dozen letters were written in the correspondence with its officers in order to be belatedly "advised by the tax collector that his property had been deeded . . .", AND THEN THE ACTION WAS TIMELY FILED.'

Respondent's own summation of the controlling issues, taken in true context with the unusual facts, show that these facts distinguish this case from any cited by respondent; therefore, it is submitted, prove petitioner was clearly deprived of his property without "due process of law," in violation of the "Fourteenth Amendment to the United States Constitution."

Then, there is still the unresolved question of the applicability of § 338 of C.P.C. (sub 4) pointed to in the petition (p. 9, footnote 2), studiously ignored in the Answer.

Most of the citations and points discussed by respondent in its Memorandum are either erroneous or not applicable. It has demonstrated confusion by inadvertently stating as fact that which is not true; but, nevertheless, with such positive persuasion by its

skilled counsel that it also demonstrates how overburdened courts* would tend to accept its statements over petitioner's *pro se.*

Respondent's Answer does not show how or where the District Court adjudicated the constitutional question even though the Appellate Court remanded, as it concedes, pursuant to 28 U.S.C. § 1331, (Answer p. 3), instead in answer, it incredibly states (top of p. 2), "there is no federal question involved . . ."; however § 1331 confers jurisdiction specifically on account of there being a constitutional question.

The District Court made no ruling on the proven "lack of due process" circumstances which were not permitted to be fully advanced since the complaint was not answered, also petitioner was foreclosed from F.R.C.P. discovery proceedings.

It is here contended that civil due process and rights under the Federal Constitution, particularly in a case involving real property confiscated by a governmental entity, under such unusual circumstances, have great importance for review by this Court in a strong ratio along a parallel constitutional vein to the new concepts of criminal due process.

Recent criminal constitutional due process cases have received world-wide attention and discussion. Just a few nights ago, March 16, 1967, of the same day

*Recent news media reports are cited concerning the overburdened district courts as well as appellate courts in general.

petitioner received respondent's Answer, there was such a discussion on "sound-off" public, telephone participation radio program broadcast from (K.C.B.S.) San Francisco, California, wherefrom one of the participants said:

> "Americans should get down on their knees and give thanks for [this court] the Supreme Court."

CONCLUSION

For the reasons stated herein and in the petition, the county should accept the payments for the property *nunc pro tunc.*

Respectfully submitted,

D. J. MILLER,
Petitioner Pro Se.

Box 728
Lake Shore Court
Boulder City, Nevada